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MOTION FILED

MAY 4 1965

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1964

NO. 13 ORIGINAL

STATE OF TEXAS,

v.

Plaintiff

STATE OF NEW JERSEY, ET AL.,

Defendants

STATE OF FLORIDA,

Intervenor

MOTION FOR CLARIFICATION
AND MODIFICATION OF OPINION

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NOW COMES the Plaintiff, State of Texas, and respectfully moves the Court to clarify and modify the opinion delivered in connection with this cause on the 1st day of February, 1965, 379 U.S. 674, in the following respects:

I.

By stating that the holder of the funds in question, Sun Oil Company, is subject to the jurisdiction of each of the 48 continental United States;

II.

By modifying the statement of the controversy so as to show that the question to be resolved is not which State has *jurisdiction* to escheat, but rather—which of

the states having jurisdiction has the right to take under its escheat laws.

III.

By stating that the rule formulated by the Court to resolve the controversy in this case has no application where the state of last known address does not have personal jurisdiction of the debtor or holder of the funds.

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STATEMENT IN SUPPORT OF MOTION

Plaintiff is constrained to present this Motion to the Court in an effort to ascertain the proper limits of the application of the rule announced by the Court in its opinion. Numerous corporations chartered under Texas laws are presently contending that the opinion of the Court in this case prevents the State of Texas from escheating funds held or owed by them to persons whose last known addresses are outside Texas, regardless of the fact that such corporations neither do business nor are authorized to do business in the state of last known address. Such an application of the rule announced by the Court in its opinion herein would effectively preclude the escheat of such property by any state, since personal jurisdiction of the debtor or holder of the property in question is a prerequisite of escheat. *Provident Savings Institute v. Malone*, 221 U.S. 660, 31 S. Ct. 661, 55 L. Ed. 899 (1911); *Security Savings Bank v. California*, 263 U.S. 282, 44 S. Ct. 108, 68 L. Ed. 301 (1923); *Anderson National Bank v. Lockett*, 321 U.S. 233, 64 S. Ct. 496, 88 L. Ed. 684 (1944); *Standard Oil Co. v. New Jersey*, 341 U.S. 428, 71 S. Ct. 822, 95 L. Ed. 1078 (1951).

The fact that Sun Oil Company is registered to do business in all of the continental States of the United States appears in the record as Stipulation XIV. This case would never have been presented to the Court had Sun Oil Company not been subject to the jurisdiction of the courts of the claiming states. The question posed by this case was not which State had jurisdiction, but rather which of the states having jurisdiction has the right to take the property in question under its escheat laws.

By asking this Court to clarify the opinion in this

cause so as to limit the application of the rule therein announced to those instances in which the debtor or holder of the property sought to be escheated is subject to the jurisdiction of the state of last known address of the owner of such property, Plaintiff merely seeks conformity with the facts in the record and adherence to the concept that the assertion of the escheat laws of a state depend upon personal jurisdiction of the debtor.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, W. O. Shultz II, Assistant Attorney General of the State of Texas, one of the attorneys for the Plaintiff, State of Texas, in this cause, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the ----- day of -----, 1965, I served copies of the Motion for Clarification and

Modification of Opinion, filed by the Plaintiff, on each of the parties to this cause by depositing copies in a United States Post Office or Mail Box as certified mail with air mail postage prepaid and addressed as follows:

Honorable Richard J. Hughes
Governor of New Jersey
State House
Trenton, New Jersey

Honorable Arthur J. Sills
Attorney General of New Jersey
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Honorable William W. Scranton
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State Capitol
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Honorable Walter E. Alessandrini
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